

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

Ako K. Burrell, Plaintiff

-VS-

Carl Bell, Superintendent CCF;
Webb, Adv. Sup. of CCF;
Moh, Captain of CCF;
George, Ingr. of CCF;
Kowalski, Sec. Chil. of CCF;

King, Deputy Superintendent of Programs

John Doe, Warden of CCF;

Wilson, C.O. of CCF;

Whitehurst, C.O. of CCF

Demars, Sarge of CCF;
Burway, Sarge of CCF;

Rushford, Nurse Admin of CCF;

Anthony Annucci, Commissioner of DOCCS

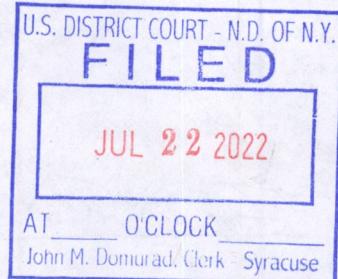
Donovil, Reg. Room C.O. of CCF,
Defendant(S), et. al.

Sued in their individual & official

capacity.

Index No.

9:22-cv-770
GLS/TWD



(Page one)

I. INTRODUCTION

1. This is a 1983 action filed by Plaintiff who
is a State Prisoner, alleging violations of
his constitutional rights to receive medical;
Therapeutic; Transitional Services; Rehabilitation Treatment;
Occupational Therapy; Due Process; Access to the Courts;
& Atypical & Significant Hardship & seeking an injunction
relief & money damages. Plaintiff also seeks
an injunction & damages pursuant to the American
with Disabilities Act; & Rehabilitation Act;

II. JURISDICTION

2. Jurisdiction of this Court is invoked pursuant
to 28 USC 1331 in that this is a civil
action arising under the Constitution of the
United States.

3. Jurisdiction of the Court is invoked pursuant
to 28 USC 1333 (a) (3) in that this action
seeks to redress the deprivations under color
of State law of rights guaranteed by acts
of Congress providing for equal rights of
persons within the jurisdiction of the
United States.

(Page Two)

9. Defendant C. Gregory, is the Finance Finance Program Supervisor, of CCF, a municipal government entity in the State of New York, and manages and oversees Plaintiff.

10. Defendant Matott, is a Captain of CCF, a municipal government entity in the State of New York, and manages and oversees Plaintiff.

11. Defendant John Doe, is a Lieutenant of CCF, a municipal government entity in the State of New York, and manages and oversees Plaintiff.

12. Defendant Wilson, is a Correction Officer of CCF, a municipal government entity in the State of New York, and manages and oversees Plaintiff.

13. Defendant Whitehurst, is a Correction Officer of CCF, a municipal government entity in the State of New York, and manages and oversees Plaintiff.

14. Defendant Bushford, is the Nurse Administrator of CCF, a municipal government entity in the State of New York, and manages and oversees Plaintiff.

Defendant Ben Ware, is an Offender Rehabilitator Coordinator of CCF, a municipal government entity, in the State of New York, and manages and oversees Plaintiff.

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III. PARTIES

4. Plaintiff at all times relevant was confined by the New York State Department of Corrections (NYSDocs) at Clinton Correctional Facility (CCF) Dannemora, New York.

5. Defendant + Anthony Annucci, Commissioner of NYSDocs, a municipal government entity in the State of New York, and manages and oversees Plaintiff.

6. Defendant Earl Bell, is the Superintendent of the Clinton Correctional Facility (herein after CCF), a municipal government entity in the State of New York, and manages and oversees Plaintiff.

7. Defendant Webb, is the Education Supervisor of the CCF, a municipal government entity in the State of New York and manages and oversees Plaintiff.

8. Defendant King, is the Deputy of Programs of the CCF, a municipal government entity in the state of New York, and manages and oversees Plaintiff.

15. Defendant Beemars, is a Senior Offender Rehabilitation Coordinator, of CCF, a municipal government entity in the State of New York, and manages and oversees Plaintiff.

16. Defendant Dominic, is a correction officer of CCF, a municipal government entity in the State of New York, and manages and oversees Plaintiff.

17. Defendant Kowalski, is a recreation civilian of CCF, a municipal government entity in the State of New York, and manages and oversees Plaintiff.

18. Defendant King, is a sergeant of CCF, a municipal government entity in the State of New York, and manages, and oversees Plaintiff.

19. Defendant McIntosh, is the superintendent of CCF, a municipal government entity in the State of New York, & manages, & oversees Plaintiff.

20. Defendant Sorosa, is the Lieutenant of CCF, a municipal government entity in the State of New York, & a municipal government entity in the State of New York, & manages & oversees Plaintiff.

21. At all times relevant to this complaint, all Defendants(s) acted under color of New York State law.

22. At all times relevant to the complaint, Defendants(s)

were acting as agents within scope & course
their employment, & under the direct control &
supervision of defendant(s).

23. At all times relevant to this complaint, all Defendants(s) acted in concert & conspiracy
& were jointly & severally responsible
for the harms caused to Plaintiff.

IV. FACTUAL ALLEGATIONS

24. On or about February 20, 2020, Plaintiff was
housed in CCT, he was housed in AF,
and subsequently transferred to A-block
on or about November, 2020.

25. On or about February 12, 2021, Plaintiff filed a Civil Practice Law and Rules Article 70; Habeas Corpus, in New York State Clinton County Supreme Court. He was issued a writ to appear at Court March 12, 2021 at 12:00pm. (See Exhibit A).

26. Once Defendants(s) King, Demers, Berware, Wilson, Littmore (AB). John Doe II, Wilson, Lashway, Moth Captain Kowlist; Sgt. King, Anthony Annuci, became aware that Plaintiff was petitioning for Habeas Corpus relief, pursuant to the CPLR Art. 70 petition he filed. They began to all conduct adverse acts to get the Plaintiff to drop the motion (Habeas Corpus).

27. These retaliatory, & adverse, are compartmentalized as follow. All defendants were apart ~~and~~ of a ^{with mutual} collaborated effort, and Criminal Conspiracy, to have Plaintiff drop the CPLR Art. 70 Habeas Corpus.

-cv-00770-BKS-TWD Document 1

WILSON; WHITE HURST;

John Doe Lt. Bell. \$

King; Law Library.

Access to the Courts

Program Removal; Adverse

ACT

1000

28. Defendants Earl Bell is the Superintendent of CCF; King is the Deputy Superintendent of Programs at CCF; both of these Defendants are the Supervisors of the CCF Law Library.

29.

29. Defendants, Wilson, and Whitehurst are
the law library officers, and the Daily
Staff, and King and Bell are their supervisors,
Plaintiff held a job as Paralegal Assistant
in the CCF; for the Pro; and later
moderated at CCF 12:245 pm; & 7:00-9:45 pm.

30. Plaintiff drafted his CPLR Art. 70 Habeas Corpus Petition on the CCF Law Library desktop computer. He Printed it out, made copies, paid for stamp and mailed it to the Clinton County Clerk at 137 Margaret St, Plattsburgh, New York.

~~12216~~
A12

101A
AG

Page Eight

CIVIL PRACTICE LAW & RULES
ARTICLE 70; HABEAS CORPUS;
RETALIATORY ACTS; ALIENAGE
ACTS; ENCOURAGEMENT TO DROP
PETITION IN FRANKLIN
COUNTY SUPREME COURT

31. On February 17, 2021, Plaintiff was informed by Defendant Whitehurst, due to the filing of my CPLR motion Habeas Corpus; Article 70, and the utilization of the CCF; Law Library desktop computers to do so, showed a sign of betray to CCF; Superintendent Defendant Bell, & Anucci the Commissioner of Docs.

32. Defendant Whitehurst then informed Plaintiff that Attorney General Michael A. Francis, that Plaintiff's CPLR Act 70 Habeas Corpus, will ultimately caused a release of prisoners due to the Covid-19 Pandemic, and Bell & Anucci's deliberate indifference to the safety needed to be protected from the deadly virus, and therefore once I ditched the Habeas Corpus then I can work at CCF; Law Library, as a Paralegal assistant, but as of today, I'm fired and removed as a Clerk.

33. On or about March 18, 2021, Defendant M. King was written an appeal by Plaintiff, to retain his Law Library Job. Plaintiff outlined the pattern of harassment and the retaliatory actions of Defendant Wilson, Whitehurst, Bell, & Ameci, et. Sorosa.(See Exhibit B)

34. The isolated incident, where a Law Library Clerk made copies of my Habeas Corpus and gave it to Defendant Wilson & Whitehurst to read. The Habeas Corpus gave a detailed Petition that demonstrated the release of Plaintiff was necessary, to cure the 8th Amendment Cruel & Unusual Punishment, Atypical & Significant Hardship, Conditions of Confinement. It made mention of the spreading of the virus, was a habit in CCF, Law Library, where Plaintiff worked, and that the desks, top Computer Key boards, & Supplies (e.g. staples, tape, paper-backs, & Counter tops) were not disinfected.(See Exhibit B).

35. Defendant Wilson, yelled at Plaintiff "I own you under the 13th Amendment Nigga, so if you think you so smart & can get released, think again, I read this Bullshit, guess what you no longer a Paralegal Assistant, you are not allowed to use the computers, matter of fact, wife down all the computers, chairs, typewriters, if you want to keep working here, your my slave."

36. In or about March 30, 2021 Defendant Mr. King, replied to Plaintiff Appeal of his Program removal. She informed Plaintiff that his removal (Security) was reviewed and approved by her. Furthermore, she ordered C.O. Cashway to search my cell, in retaliation of utilizing the law library computers, and to place insurance that Plaintiff would not do that again. (See Exhibit C).

37. In or about March 25, 2021, Defendant Gregory and the CCF; Inmate grievance Committee Unanimous DEADLOCKED decision in response to Plaintiff's redress of his law library removal, that went into effect as of February 22, 2021. (See Exhibit D)

38. Defendant Mr. King is in charge of the TPAK Email Correspondence Program at CCF, which is governed by Directive #4425. Due to Plaintiff utilizing the CCF law library computers to file his CPLIC Habeas Corpus Arts 70, B appeal his law library program removal decision his email program, was retaliated against. On or about March 06, 2022, Mr. King, conducted a supervisory tour of A-Block. Plaintiff inquired if Terry Host was experiencing a technical difficulty, due to the fact he cannot send emails out, and have not received emails within (72) seventy-two hours in accordance with Dir. 4425.

RELATIONS DISCRIMINATORY
BY RETALIATORY ADVERSE
ACT(S). ACCESS TO THE COURTS

39. Defendant M. King, began to boycott Plaintiff legal services. All the Prisoners Plaintiff Provided Paralegal Assistant, and Wanted to file the Habeas Corpus CPC Art 70, to be released from CCF due to 8th Amendment, Covid-19 virus, deliberate indifference of the Conditions of Confinement, and exposure to be infected with Covid.

40. Defendant King, had Previously approved Plaintiff to provide this legal assistance, to the following Prisoners of CCF; D. McPherson #13B0817; M. Harris 17A2715; A. Jordan 13A5546; R. Winston 19A3820; B. Lovine 17A3218.

41. She, retaliated against Plaintiff, on or about May 07, 2021, Plaintiff wrote for permission to provide legal assistance to Prisoners, and assist in filing a Habeas Corpus, CPC Art 70, to be released from CCF, in accordance with Directive #4483, which does not require Plaintiff to be a Law Library Clerk, Plaintiff must have a legal Research Certificate, issued by Doctor King had Previously approved the assistance, until she discovered the objective she terminated all these clients, and directed the prisoners to attend law library. See Exhibit E. (Page Thirteen)

42. On or about June 29, 2021, Plaintiff was transferred to Dr. Block, from Vfj. Defendant McCleary informed Plaintiff, Statements of Grievances, & the CPER Art. 70, Habeas Corpus; he is lucky that he did not kill him, and he will be packing my property for this transferred & it will be destroyed.

43. On or about October 27, 2021, Jane Doe, (Defendant) opened Plaintiff Certified legal mail # 700119700000-50230074, and stated the "mail item deemed suspicious" and for Plaintiff to provide \$0.78 to return the item to the sender. Plaintiff appealed this matter to Defendant McIntosh that Dir. 4422(f), requires Certified mail is to be signed & received by Plaintiff via the legal mail. That Jane Doe violated Federal law, and the appeal was made in accordance to Dir. 4422(g);(7). (See Exhibit F)

44. Jane Doe, stated it was subject to inspection as a non-legal mail item is, which is untrue, Dir. 4422(e) clearly states Protocol for Certified mail. Plaintiff returned the mail item to his Attorney Nicholas Passalacqua, who was to represent him for the CPER Art. 70, and his mother said he never received the returned mail.

Plaintiff contacted the Jane Doe, and inquired, on or about November 18, 2021 Jane Doe stated, "The item has left the facility." On or about December 24, 2021, Defendants McIntosh, Gregory, & Jane Doe, admitted to destroying my Certified mail and not returning to my attorney. (See Exhibit F).

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RELIEF; FRASHIGHT;
DISCREMINATORY; RETAILATORY
ADVERSE ACT(S); COERCEMENT
TO DROP CPER ARTICLE TO
HABEAS CORPUS AGAINST KANE
BELL IN FRANKLIN COUNTY
GOVERNMENT COURT.

45. On or about June 13, 2020, after weight training, Plaintiff went to a secluded, less congregated area of the CCF; North Yard, and began to jog. Plaintiff was ordered by defendant John Doe Sergeant to jog on the flats area.

46. Plaintiff objected, stating "There is over 200 people in here into somebody, or run a soccer game and the phone list, it will cause a fight, I can't jog on the flats". John Doe stated "Yeah, hopefully you do so we can let the courts know, if you do? that habeas corpus you can jog".

47. Plaintiff contacted Defendants Bell, and Matott, who told Plaintiff too "... follow staff directions", insuring to drop the CPER Art. 70 Habeas Corpus, and will be able to jog in a less secluded, less danger prone environment. This occurred June 14 - 21, 2021. (See Exhibit B).

UNSANITARY CONDITIONS
OF CONFINEMENT(S); ATYPICAL
B SIGNIFICANT HARM SHED

48. From February 22, 2022, until April 12, 2022, Defendant Bell, McIntosh, Annucci, directed John Doe C.O.(s) in D-Block; VF; VH; Unit-14 to shine their flashlights in Plaintiff face when conducting a supervisory tour. Defendant Tweller, flashed a flash light in Plaintiff eye's and Plaintiff has not been able to see out of his right eye, and can not sleep unless medically induced, his brain sees flashes when his eyes are closed. (See Exhibit H)

49. Plaintiff was housed in OH; VF; D-Block, where it was mice and roaches, the mice bit Plaintiff in his sleep and ate his clothing destroying (3) Pairs of \$80.00 sneakers, ~~\$80.00~~ 12 T-shirts valued at \$15.00 Each; legal Work Tier IV Disposition Plaintiff suited to Article 78; The roaches were in Plaintiff ear, Plaintiff awoke to a roache exiting his right ear and scurrying across his face.

50. Defendant McIntosh did not order Pest Control until March 03, 2022 and did so solely for D-Block 4 working. (See Exhibit I).

51. Defendant McIntosh, and Jane Doe Correspondence officer, as well as C.O.'s Wilson & Whitehurst, defaced, tampered, destroyed, & altered Plaintiff incoming & outgoing legal-mail correspondence.

52. On or about December 24, 2021, Plaintiff grievance was heard in reference to the motion to Dismiss Objection(s) in U.S. N.D.N.Y. Burnell v. Oneida County, filed by Cone, that went missing. Secondly, the Trial Appeal that Plaintiff needed to Perfect a Article 78, to Challenge A. Lockovice decision to Uphold the guilty disposition. Defendants, McIntosh, and Defendant & Jane Doe, never provided Plaintiff these legal documents, via CCF legal mail or general non-privileged process, Plaintiff was not able to file the CPLR Art. 78, due to not having the general, & the Statute of Limitation Expired (4 months from Appeal date), and the Motion to Dismiss Plaintiff's Complaint was granted by U.D. N.D.N.Y. 10042-21 Index # 2571-22 (Subexhibit).

53. Plaintiff was denied law library access, while in id-block, Plaintiff was able to provide interrogatories, a motion to compel discovery or file a Dispositive motion Summary for Judgment. On or about March of 2022, Plaintiff grievances were heard and Plaintiff never got to file those motions, due to No law library access to receive papers, being case law, to perfect the litigation of Burnell v. Oneida County.

56. (Defendant's) Bell, McIntosh, Wilson, King, & Whitehurst, held a Policy in CCFJ to have any Manila env' envelopes issued to Plaintiff. Plaintiff has to (1) disclose the contents of outgoing mail; (2) The Manila envelope can only be mailed from the facility law library. This was as Wilson & Whitehurst informed Plaintiff "to see if someone is trying to sue us, or bring some action in the courts, we are ahead, Shit, I'll tell you the truth, I'm not mailing out shit that has me or my boys listed as a Defendant."

57. Plaintiff mailed an Order to Show Cause CPCR Art 78; to Jeff McKey, which challenged the decision to deny Plaintiff Limited Time Credit Allowance.

Plaintiff gave the documents (2) (a) to be mailed to the NYS Attorney General; (2) Jeff McKey; & (3) to the Albany County Supreme Court 782-22 Index #. 1008-2 (See Exhibit K).

58. The Respondents moved for a motion to dismiss the Art. 78, due to a lack of Court jurisdiction, inter alia, Plaintiff did not properly serve the respondents, the envelope bearing no postage stamp, and they did not receive the Art 78, before March 11, 2022, Plaintiff gave these documents to Defendants Bell, McIntosh, Whitehurst, & Wilson. The Supreme Court of Albany dismissed Plaintiff Art 78a. Which the relief was to be released from DOCCS April 19, 2022. (See Exhibit L). (Page sevenTeen)

17

PACKAGE ROOM; METALLATORY
ACTIONS; ADVERSE ACTIONS;
TOLEREMENT TO DROP; CPLR
ARTICLE 70 HABEAS CORPUS
ALANST KARL BELL IN FRANKLIN
COUNTY SUPREME COURT.

54.

Plaintiff provided Defendants Whitehurst, Wilson, King, B Webb, with numerous Court ordered ^{as} deadlines. This is the incombent these Defendants, to provide Plaintiff with Dis. 4483 Law Library Special Access, which will allow Plaintiff with access to the Courts to meet the Court Deadlines; Statute of Limitation; with the Supplies Law Library Westlaw Application. Paper, Pen, & Copies of Exhibits, that can not be duplicated longhand.

55. These Defendants McIntosh, Whitehurst, Wilson, King, Webb, B True do, denied Plaintiff the right to fulfil Court of Claims, NYS Statute, that requires the Claimant (Plaintiff) with a Certified mail receipt of his claim. Plaintiff received a motion to ~~#04A~~ ²²⁻⁰¹³⁹⁶⁶⁻¹¹ dismiss his Court of Claim Tort, because he failed to served the Attorney General via Certified Mail, Plaintiff protested his indigency and his lack of finances to afford to pay for Postage to Serve Certified mail. These Defendants upheld their policy, to deny Plaintiff these rights, (See Exhibit M).

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59. On or about February Plaintiff enrolled into the Blackstone Career Institute in Allentown, PA; 1101 Brookside Rd.

On or about November 2018, Plaintiff completed this course and paid the \$5,716.00 tuition fee, & received his Paralegal certificate. On or about February 2019, Plaintiff, enrolled into the U.S. Career Institute 2001 Lowe St, Fort Collins, CO 80525, the course was Accounting, these enrollments occurred in Africa Con. facility.

60. Plaintiff arrived at CLF, and requested to have his Paralegal Certificate placed in his file, to receive Paralegal Assistance wages, and not clerical wages. Defendant Webb refused to do so, & ORL Beware as well. A White Prisoner, Lewis, had the same accolades and his doc to Webb placed his Paralegal Certificate in his file, & made it reflective to receive Paralegal wages.

61. On or about July, 2020, Plaintiff met with Defendant Webb, and provided the Insurance Claims Adjuster & Wedding & Event Planner curriculum, for his approval. These two(2) courses required use of computer access Excel, & Word (Microsoft Software), to meet the conditions to complete the courses. These courses are \$1,279.00 each, and the books are \$150.00, and there is a \$69.00 late fee if you don't make the tuition monthly payment or provide the exams before the instructor's deadlines (See Exhibit No. 1).

U.S. CAREER INSTITUTE CAREER;
VS BLACKSTONE CAREER INSTITUTE;
COLLEGE CORRESPONDENCE COURSES;
ADVERSE ACTS; NEGLIGENCE;
DENIAL OF SERVICES; RACIAL
DISCRIMINATION PRACTICES

62. Plaintiff was given permission by Defendant Webb, King, & Bell, to enroll in the U.S. Career Institute Course Code(s) 4400; 2252; & the Pre-existing Accounting Course (1801), was approved from Africa, UPstanding. This is Pursuant to Dir. 4804. (See Exhibit N).

63. On or about August, 2020, Plaintiff was enrolled in the Inmate Program Assistant Course and was certified to assist in Programs. Defendant Benware, & Webb, Demars, King, & Bell, informed Plaintiff of the Ashland University College Pilot Program at CCF, and believed Plaintiff was a prime candidate. Plaintiff, was against this, due to his legal issues, & his courses he was enrolled in, the Ashland venture would be to burdensome.

64. On or about November, 2020, Defendant Webb, & Benware, fabricated Plaintiff signature and enrolled him into Ashland. Plaintiff refused the video-conference in the CCF visit room. Defendant Webb, & Benware, then informed Plaintiff "You know we needed, you to get the Ashland Course approved, now, since you think you so better than everyone else, your College Correspondent courses you are paying for, we will no longer be providing you said I hope you spent that money, & fail those courses." (Page Twenty)

OFFENDER REHABILITATOR
 COORDINATOR; DELIBERATE
 INDIFFERENCE; REHABILITATION
 GOALS; TREATMENT PLAN.
 NEGLIGENCE; WANTON DISREGARD

65.

Defendant(s) Demars, Webb, Bensow, King, and McIntosh kept Plaintiff enrolled in the College Correspondence, but would not allow him books, or a testing area ~~as~~ a Proctor. On or about August 07, 2021 the ~~three~~ DEADLOCKED, the grievance was agreed that Defendant Webb approved the courses, but refuses to afford the grievant the opportunity to complete the coursework with an adequate facility testing area.

66. Plaintiff Contacted Defendant Ben Whire refused to place Plaintiff eligibility to receive Limited Time Credit Allowance (LTCA) benefit(s) Dir. #4792. The Plaintiff satisfied the program criteria; (1) of the LTCA Dir. 4792. Defendant Webb, was the review authority, rendering a determination regarding college degrees and semester credit hours satisfying the LTCA College Programming criteria, Plaintiff Accounting Paralegal, Insurance Claims Adjuster, is Wedding & Event Planner. These courses curriculum meets the (3) three credit hour. These courses curriculum meets the (3) three credit hour. Semester meets for three 50-minute sessions per week for 15 weeks, for a total of 45 sessions. Plaintiff was over qualified. Defendants Bell & Webb, informed Plaintiff, if he dropped the Habeas Corpus, he will receive LTCA. He did not so they denied it. (Doc. Twenty-one) (See Exhibit P).

67. On or about October, 2020, Plaintiff completed his Accounting course, a requisite that the U.S. Career Institute stipulated was for Plaintiff to contact the ~~IRS~~ ^{IRS} Internal Revenue Service, and obtain his tax Preparer application identification number, form WP-7. Plaintiff, had a girlfriend, Cytearia nail King, & ^{AP} Tara Doe denied Plaintiff this form. (See Exhibit 6).

68. Plaintiff, began to be denied the following services; (library general); and once he filed his CPR Art. 70, ^{AP} his ~~has~~ Corpus to be released from DOCCS, Webb became irate stating "oh, you put a target on your back." Webb then refused to place Plaintiff College exams on to the Training Achievement & Potential Employability Report. (See Exhibit 7)

69. On or about June 27, 2021, Defendants(s) Mr. King, Bell, Webb, ^{AP} King, denied Plaintiff Computer access, and a testing Proctor for his Insurance Claims Adjuster that requires Microsoft Excel & Word, as well as his Wedding & Event Planner. Costing Plaintiff \$ 5,716.00 in charges from late fees, and paying tuition for courses he was not being allowed by Defendants to participate.

70. On or about July 01, 2021, Defendants(s) Webb, Bell, King, & Tara Doe (Liberian), denied Plaintiff Dir. 4470 General Library College Correspondence, studying & research of exams access. (Exhibit 8)

71. On or about October 14, 2020, Plaintiff contacted Defendant SORC Nomars, to receive a new ORC, due to Defendant Berware actions, and her retaliatory actions against Plaintiff. This was caused when Plaintiff refused to work as a Program assistant with Berware as his Supervisor. Plaintiff was expected to facilitate Transitional Services III, for offenders re-entering Society.

72. Plaintiff wanted to make the Curriculum with a contemporary methods of integration. By utilizing DOCCS contract with Department of Motor Vehicles, DOCCS contract to take the Permit exam, receive to allow Plaintiff to take the Permit exam, receive a NYs ID, take CLE exams, prior to release from DOCCS, and raising the \$40.00 release gate fee to \$50.00 and, provide realistic release information. Defendant Berware became irate and made a racial statement "Black People are fucking lazy, if I got to wait in the line so do you, & that's out so NO, we want be contacting DOV," Plaintiff resigned and took a full time position in the law library.

73. Berware, refused to assist Plaintiff with his closed monitor case file, which elevated him to maximum A-Security. Plaintiff is serving a (7) year term, with less than 2 years to be released. He seeked to appeal the CMC, MAX-A, security designation, but defendant Berware refused, also refusing to place contact information on my 1st, making me wait 90 days, to place my family new #'s on my call list. She refused to assist me with any re-entry. (See Exhibit C). (Page Twenty-Three)

PROGRAM COMMITTEE
DISCIPLINARY
DISPARATE; RACIAL BIASESS;
IPA; TRANSITIONAL SERVICES

74. On or about February, 2021, Plaintiff met with Defendant Benware for his quarterly review. She refused to coordinate a Rehabilitation Plan, that was conducive to Plaintiff release, refused to issue a facility transfer, security classification appeal; once Appeal, she informed Plaintiff "If you drop that Habeas Corpus, I have no problem giving you those things, shit, Bill will even grant you ITCA, & you'll be home April 19, 2023 so it's ultimately your choice, when you go to court withdraw your motion." (See Exhibit 5)

75. Plaintiff refused the ultimatum, at the conclusion of this interview with Defendant Benware, Plaintiff was removed from the law library, by Defendant Lt. Sorosa, for being a "Security Threat" to the facility. The Dir. 4401; B 4803, requires for the program removal, and its reason to be reflective in the Plaintiff's guidance file. Plaintiff inquired the premise & nature of his law library; security threat removal, due to the fact his institutional record was reviewed at the Program Committee, when Defendant Demars assigned him the law library job. If Plaintiff was a security threat it would have been seen, he became a threat once he filed a Habeas Corpus to be released.

76. Defendant Ben Wares then yelled to a John Doe C.O. to contact the Area Supervisor, and to place Plaintiff into Protective Custody. She began to log a Protective Custody admission form into DOCCS database, fabricating an incident that due to Plaintiff asking a "Security" question in reference to his law library removal, being considered as Plaintiff wanting Protective Custody. Plaintiff informed the C.O. the nature & premise of his security concerned questions & the ramifications (i.e. Div. 44401) of asking Benwary he told Plaintiff that "This biter is crazy, you fine go back to your cell" Plaintiff returned back to his cell, in General Population (See Exhibit T).

77. Plaintiff was removed from the law library as a security threat after filing a Habeas Corpus Petition. He appeared at the Program Committee seeking a Job; ASAT; DRAFT to be Conditional Release on October 19, 2022. Defendant Denaro stated you already know you not getting a fucking program, you fucked me, I gave you the law library job, & told you don't screw me over, & you filed a fucking lawsuit or what the fuck ever against Bell, fucking Commissioner about Covid-19, the Attorney General, Commissioner Annucci is breathing down on ass, Bell had to fucking resign because of you get the fuck out my sight." And dismissed Plaintiff from the Program Committee with no program assignment. (See Exhibit U) (Page Twenty-five)

T. b. R. C. DUE PROCESS;
ADVANCE ACTIONS; RETALIATORY
ACTS; IMPEDIMENT OF EXHAUSTION
OF ADMINISTRATIVE REMEDIES

78. Defendant C. Gregory, informed Plaintiff that Attorney General Defendant Michael C. Lafrancis that Plaintiff was an avid litigator, and do not process his grievances because Lafrancis can raise a "Failure to Exhaust Remedies" to defense against any lawsuit Plaintiff intended to file.

79. Plaintiff grievances conducted by Defendant Sgt. Fazett, were held arbitrary or outside the scope of Dir. 4040. Bell, Gregory, McIntosh, & King refused to implement a Pass system for grievance representation to expedite the grievance process, this resulted in gross negligence, Dir. 4040, 701.6(d)(1) requires a Pass system these defendants have no good cause a total of 54 grievances were never processed. (See Exhibit V).

80. Gregory, Bell, King, McIntosh, & Fazett refused to train grievance representatives, allow witnesses, conducting hearing(s) without Plaintiff presence, there was never a legitimate ~~try~~ try these objections were disregarded. They refused to interview staff members, and allow inmate representatives to investigate grievent. At all times this was the facility policy, from February 2020, - April 2022.

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81. Defendant Michaels, and Plaintiff held court, and Bell resigned. Plaintiff never received his decision & order for the CCR Arts 70; he instead received Donnell Festus, # 10A 4353, he contacted the Clerk of Clinton Court, John Doe; Defendant Michael R. Cveras, informed Defendant Gregory, that Plaintiff will not receive his decision, so he could not file an appeal or a federal Habeas Corpus. (See Exhibit V).

82. Plaintiff never received his decision & order, he sought this, and file the and due to his indigency could not pay the \$0.25 per page by Clinton Court # CC-0481-11. Plaintiff never got to file an appeal of the Habeas Corpus, and/or a federal Habeas Corpus. (See Exhibit W).

83. Plaintiff remained incarcerated and was infected with covid-19 and hospitalized. Plaintiff was informed by MCI to SA that he will not be receiving any former treatment. Plaintiff began to be denied the right to form his organization "Writer's Block" a liberal Arts, for artistic prisoners, the CCF has a radio room, Plaintiff sought access to broadcast a radio program utilize the CCF auditions to show case liberal arts, and to circulate a Facility News paper

FIDUCIARY; INSOLVENCY;
INCARCERATED INDIVIDUAL LIAISON
COMMITTEE; OCCUPATIONAL
THERAPY FUND; MISALLOCATION
OF FUNDS; CONTRACTS; ANTI-
TRUST CLAYTON & SHERMAN ACT.

84. Plaintiff subsequently spoke with Defendant Kowloski, about being placed on the Inmate Liaison Committee, as a representative for the VF- Block on CCF. Kowloski laughed & stated "Please, your ass got Bell fired, listen all your grievances, and forming of organizations, newspaper, radio show all go thru me, Bell was my friend for me to approve anything from you will be betray, so stop writing". (See Exhibit X).

85. Plaintiff submitted the forms to form a News Paper, organizing radio show, & ILC, all were denied, in retaliation of filing a Habeas Corpus that caused Bell to resign as the Superintendent of CCF. Plaintiff was not able to provide any type of social encounters or Productivity because of the fear of filing Habeas Corpus motions on behalf of others. Plaintiff experienced denial of packages in retaliation as well.

(Page Twenty-Eight)

86. Defendant King was spending the occasional therapy funds insolvently, she was the CCF fiduciary and was required pursuant to NYS Finance Law 163, to spend, & allocate these funds responsibly.

87. Plaintiff received a pair of boots, solid color red, and they were denied, Plaintiff Pkgs were returned to sender, Plaintiff never received his package within 72 hours as required in Dir. 4911, he received a package on Thursday, and received it Monday this was due to Sgt King who stated "C3ter you drop your Bullshit motion against Bell, then you can get your shit, but I am not opening the Pkg room on the weekly and stop putting in for Sgt Review, he have a memo "FUCK BUREAU" understand (see Exhibit Y).

88. This was due to requesting that Defendant King, review Defendant Dominic arbitrary, retaliatory denials on 12-04-2020; 06-02-2020; 08-06-2020. Plaintiff never received Pkgs, due to him refusing to drop the Habeas Corpus against Bell.

89. None of the decisions to deny Plaintiff his pkgs were within the scope of Dir. 4911

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JOAY; SECURS; DIRECTV;
B VENDORS; ANTI-TRUST
SHERMAN & CLAYTON ACT.

90.

Defendant(s) Mcintosh, King, B Rushford, denied Plaintiff medical treatment for his carpal tunnel, sciatic nerve damage, hand injuries, shoulder injury, neck injuries, right foot injuries, left thumb injuries, eye vision impairment. Plaintiff did not see a Doctor or any of his medical sick call request, were ever acknowledged until Plaintiff dropped his CPLR Art. 70 Habeas Corpus against self.

91. Plaintiff spent over \$50.00 on the CCF TV fund raiser with the clic-clic program. Plaintiff proceeds were overseen by Defendant King, who succeed a Direct TV, that contract, was \$5,000 a month, Plaintiff objected for his proceeds being spent moderately, because NYs Grace law 163 requires cost efficiency & the best value plan. The best value plan was a streaming service (e.g. Amazon FireTV, Hulu, Netflix). (See Exhibit 2).

92. Defendant King allowed Defendants Whitehurst & Wilson to possess a Roku streaming service in the CCF law library. This was purchased with Plaintiff clic-clic proceeds. This was a discriminatory act. Plaintiff demanded a refund due to the miss appropriation of his clic-clic proceeds.

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95. Defendant(s) Gregory, these adverse retaliatory tactics, caused Plaintiff Physical, mental, & Civil injuries causing Pain & suffering. Violated Plaintiff 13th; 8th; & 14th Amendment Right(s) Pursuant to the U.S. Constitution.

96. Defendants(s) King, Bell, McIntosh, Sg King, Kowalski, insolvency, in irresponsibly Spending the funds allocated to the TV Fund Raiser Program, with Plaintiff Cic-Cic Proceeds, Securing a DirectTV Contract & Paying \$5,000 a monthly & refusal to implement a more cost efficient & broad variety of Channels, Amazon Fire Stick; or a Streaming Service; & to allow Defendants(s) Whitehorse, & Wilson to Possess a ROKR Streaming Device in the CCC's Law Library, to cause a fiscal gross, in the CCC's National Library fund to manipulate, deceive, & exploit NY's Tax Payers funds, with the illogical DirectTV Contract that was expensive, and a cheaper alternative's were available to Defendants(s) suggested by Plaintiff, to use his Proceeds as directed in NY's State Finance Law 163; Violated Plaintiff 15th; 8th; & 14th Amendment Right(s) Pursuant to the U.S. Constitution. Defendants(s) Teller, flashing the flashlight in Plaintiff eyes, causing visual impairment & insomnia, in retaliation to filing a CPLR Habeas Corpus. Violated Plaintiff 1st Amendment Right Pursuant to the U.S. (Page Thirty-two) Constitution.

EXHAUSTION OF REMEDIES

✓

93. Plaintiff exhausted all the administrative remedies available to him, in respect(s) to all claims contained in the Complaint, attached as Exhibit(s).

Plaintiff alleges all the Paragraphs 1-93 in the Complaint as the cause of action.

VI. CLAIMS FOR RELIEF

94. Defendants, Bell, McIntosh, King, Wilson, Whitehurst, Demars, Webb, Lastway, Annucci, Ashford, Benware, ~~et al.~~ Sorasa, Matott, Kowalski, retaliatory actions, adverse acts, to drop the Habeas Corpus Act, 70; CPLR; they denial of Programs, College Correspondence; Law Library removal, medical treatment; removal from Physical therapy; Protective Custody Placement at Health; CMC appeal refusal; Package room denial of Packages; SPAY messages denial; Crier Vana denial; Miles & Roaches injuries; Law Library denial; Outgoing & Incoming mail damage, destruction, & denial; Denial of Orthopedics.

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97. Defendant(s) Bell, most, Koniski, King, Doe, Wilson, Whitehurst, Berwane, Rushford, B. Annucci, Divers, Webb, Gregory, Sorosa & Cashway has failed to comply with the mandates of 42 U.S.C. 12132 & 29 U.S.C 794 in the following area(s):

- (a) The failure to properly train supervise & discipline regarding crisis intervention technique for Plaintiff who exhibits the signs & symptoms of medical disabilities,
- (b) The failure to provide adequate training & resources for crisis intervention teams of the said Defendant(s) Defendant(s) Bell, most, Koniski, King, Doe, Wilson, Whitehurst, Berwane, Rushford, B. Annucci, Divers, Webb, Gregory, Sorosa & Cashway to respond to emergencies involving persons with medical disabilities.
- (c) The failure of Defendant(s) Bell, Annucci, most, Koniski, King, Whitehurst, Divers, Berwane, Rushford, & Cashway to follow policies, procedures, directives, & instructions regarding crisis intervention technique(s) for individuals who exhibit the signs & symptoms of medical disabilities.

98.

b. Failed to ensure through training, supervision & discipline that correctional, & medical staff at CCF; in necessary circumstances, make a referral for medical treatment; &

c. Entered into a contractual agreement providing Docs & medd with a strong financial disincentive to refer Plaintiff for mental health services.

Defendant(s) discriminated against Plaintiff Deacon by reason of his medical disabilities, denying him the benefits of the services, programs & activities to which he was entitled as a person with a medical disability including but not limited to the right to be free of discriminatory & disparate treatment by virtue of his mental disability, & to the process of the law. AS a result, Plaintiff(s) suffered harm in violations of his rights under the laws & Constitution of the United States, 42 USC 12132 & 29 USC 794.

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99. At all times relevant to this Complaint, Defendants) CCF, & medical, with deliberate indifference to the serious medical illness needs of Plaintiff at CCF, operated under a contractual agreement that required medical & Docs to Pay for medical treatments & services medications thereby, sessions, to Plaintiff at CCF; thereby creating a powerful disincentive for medical & Docs staff to review, evaluate, & treat Plaintiff for medical services.

100. At all times relevant to this Complaint, the conduct of all Defendants was in willful,reckless, & callous disregard of Plaintiff rights under federal & state law.

101. As a direct & proximate result of the conduct of all "Defendants"; Plaintiff suffered & continues to suffer psychological harm, pain to suffer physical & psychological & all of which may be suffering, some or all of which may be permanent, & financial losses.

102. The failure of Defendants Bell, Annucci, Mott, Kowalski, Ling, Doe, Wilson, Whitehurst, Whitehurst, Berway, Rushford, Demers, Gregory, Matott, Sorosa, Webb, & Lashaway to act on their knowledge of Plaintiff ~~Suffield~~ medical injuries (cont'd) loss, nerve damage, joints, bones, vision. Violated 8th Amendment right to be free from deliberate indifference to the safety.

103. Defendants Bell, Annucci, Mott, Kowalski, Ling, Doe, Wilson, Whitehurst, Berway, Rushford, Demers, Gregory, Matott, Sorosa, Webb, & Lashaway refusal to provide Plaintiff medical services, during his tenure in Docs, & to prevent & act on this knowledge of a substantial risk of serious harm to Plaintiff violated his 8th Amendment right to be free from deliberate indifference to his safety.

104. Defendants Bell, Annucci, Mott, Kowalski, Ling, Doe, Wilson, Whitehurst, Berway, Rushford, Demers, Gregory, Matott, Sorosa, Webb, & Lashaway Owed Plaintiff a duty of reasonable care to protect him from death, & medical pain suffering. Defendants breached that duty by failing to provide protection when Plaintiff informed them he was disable, & suffered from medical illness. The breach of duty resulted in the Plaintiff suffering, & end their distress. The breach of duty proximately caused these damages.

105. At all times relevant to this complaint, as evidenced by the lack of appropriate care provided to Plaintiff in this case, defendant(s), Bell, Amore, Kowalski, nothing, Doe, Wilson, Whitehurst, Benway, Rushford, Demers, with Gregory, Webb, Sorosa, & Caseney, with deliberate indifference, failed to develop & implement Policies, Practices, & Procedures to ensure that Plaintiff in this case defendant(s) CCF, & medical, with deliberate indifference, failed to develop & implement Policies, Practices, & Procedures to ensure that Plaintiff at CCF, would receive appropriate care for serious illnesses & if necessary, outside medical services.

106. At all times relevant to this complaint, as evidenced by the lack of appropriate care provided to Plaintiff in this case, defendant(s) CCF, & medical, with deliberate indifference, failed to properly train, supervise, & discipline, grievance, Program Committee, Package noisy law library, Inmate Organization, Incoming & outgoing mail, Post control, so as to ensure that Plaintiff would receive appropriate care for his serious medical illness, & if necessary, a referral by CCF, personnel at CCF, for medical health services.

107. By these actions, defendant(s) have deprived Plaintiff of rights secured by the United States Constitution, 42 US 12132 B 29 USC 794.

108. The Defendants (s) Bell, Annucci, Mott, Kowalski, King, Doe, Wilson, Whitehurst, Benway, Rushford, Demars, Gregory, Sorosa, Webb, & Lashaway caused the Constitutional violations by reason of it's Practice & custom, with deliberate indifference, of failing to properly train, supervise & discipline MJS Docs & medical easthous.

109. These defendants (s) Bell, Annucci, Mott, Kowalski, King, Doe, Wilson, Whitehurst, Benway, Rushford, Demars, Webb, Gregory, & Lashaway have also failed, with deliberate indifference, to properly train, supervise, & discipline in situations involving emotionally & mentally disturbed Persons & in the proper means of detaining or protecting such persons from harming themselves or others.

110. At all times relevant to this complaint, as evidenced by the lack of appropriate care provided to Plaintiff in this case, by defendants (s) Bell, Annucci, Mott, Kowalski, King, Doe, Wilson, Whitehurst, Benway, Rushford, Demars, Gregory, Webb, & Lashaway with deliberate indifference failed to develop & implement Policies, Practices, & Procedures to ensure that Plaintiff at CCF, would receive needed evaluation & treatment (See Thirtieth)

114. Defendant(s) Bell, Mott, Kowalski, King, Doe, Wilson, Whitehurst, Burway, Rushford & Annucci, Demers, Gregory, Sorosa, Lashway, Gregory & Webb, were deliberately indifferent to Plaintiff.

serious medical injuries, & the necessity of physical therapy, Tens-Unit, wrist brace, to cope with Carpal Tunnel, Siatic Nerve Damage, Neck, Back, Shoulder, right forearm, anal, injuries, by destroying Plaintiff's physical therapy, tens-unit, wrist brace, & medical attention. They had a duty to comply with general accepted medical standards of care in their medical treatment of Plaintiff.

115. Defendant(s) Bell, Mott, Kowalski, King, Doe, Wilson, Whitehurst, Burway, Rushford, & Annucci, Demers, Gregory, Sorosa, Webb, & Lashway violated their duty of care to Plaintiff. The defendant(s) violation of their duty of care to Plaintiff was a direct & proximate cause & a substantial factor in bringing about Plaintiff damages as outlined above, & as a result, defendants are liable to Plaintiff.

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111. Because the individual defendant(s) were acting as agents, servants, & employee's of defendant Docs, & because the individual defendant(s) were acting within the scope & course of their employment & under the direct control & supervision of defendant Docs, defendant(s)

is liable to Plaintiff on the basis of respondeat superior liability.

112. The violations of Plaintiff(s) Constitutional rights under the 1st; 4th; 5th; 6th; 8th; & 14th Amendment Rights, Pursuant to the U.S. Constitution, Plaintiff(s) damages, & the conduct of the individual defendant(s) were directly & proximately caused by the Docs, which have, with deliberate indifference:

113. a. Failed to establish policies, practices, & procedures to ensure that Plaintiff at CCF, receive appropriate care for serious medical illnesses & necessary, outside medical services & treatment; &

Bell, Annecy, Moyle, Kowalski, King, Doe, Wilson, Whitehurst,
 Defendants
 Benware, Rushford, Demers, Gregor, Sorosa, Webb, & Costway.
 refusal to provide Plaintiff with medical services
 as required under New York State Correction Law 137,
 148; & 401, was a breach of duty. The Defendants
 owed Plaintiff a duty of reasonable care to protect
 him from pain & suffering from his injuries.
 This was a deliberate indifference & violated
 Plaintiff 1st; 5th; 8th; & 14th Amendment Rights
 Pursuant to the U.S. Constitution

119th Defendants, Domonie, Sgt. King, Bell, & McIntosh, denial of
 Plaintiff packages, until he dropped his CPLR Habeas
 Corpus against Bell. Violated Plaintiff 1st; 8th; & 14th
 Amendment Rights Pursuant to the U.S. Constitution

120th Defendants, Glen Michaels, McIntosh, Bell, Gregor, Annecy, King,
 Judge Curran, refusal to provide Plaintiff a decision
 to order of his Habeas Corpus, so Plaintiff could not
 appeal to the NYS Third Dept; to a federal Habeas
 Corpus 2255; and the deceptive play, to provide Plaintiff
 with Domene's decision, and Plaintiff never
 being able to file, the revocation of Plaintiff to provide
 legal services to prisoners Winstan, Harris, Andrew Curran
 McPherson & in filing a CPLR Art. 70 Habeas Corpus
 motion for his release from CCR motion. Violated Plaintiff's
 1st; 5th; 6th; 8th; & 14th Amendment Rights Pursuant
 to the U.S. Constitution.

116. Defendant(s) Bell, Annucci, Roth, Kowalski, King, Doe, Wilson, Whitehurst, Burway, Rushford, Denars, Gregory, Webb, Losway, Sorasa, Encourage Plaintiff to have the Article 78; Dismissed
or grants the Court lack jurisdiction due to improper filing of Order to Show Cause, upon respondeat, for the retaliatory adverse action of tampering with my mail, legal-mail, given to me in the CCF, law library, causing Plaintiff to lose

LR Limited Time Credit Allowance April 19 2022 Docs

Please do to Microsoft Excel, & Computer Access, & The Excess Authority for March 18, 2022 The
of reversal. violated Plaintiff Title(s) 1st, 8th.
& 14th Amendment Rights Pursuant to the
U.S. Constitution.

117. Defendant(s) Bell, Annucci, Roth, Kowalski, King, Doe, Wilson, Whitehurst, Burway, Rushford, Denars, Gregory, Webb, Losway, Sorasa, Encourage Plaintiff to drop the CPLR Article 70
Habeas Corpus, against Earl Bell in Franklin
County Court. Re retaliation to Plaintiff Plaintiff

for filing false return violated Plaintiff's
right to be access the Courts, 1st, 5th, 6th,
8th, & 14th Amendment Pursuant to the
U.S. Constitution.

VI. REQUESTED RELIEF

WHEREFORE, Plaintiff respectfully request(s)

- A. Compensatory damages as to all defendants for One hundred million dollars (\$, 100,000,000. 00).
- B. Punitive damage as to all defendants for One hundred million dollars \$ 100,000,000. 00.
- C. Reasonable fees & costs.
- D. Preliminary Injunction & Temporary Restraining Order Granted
- E. Such other & further relief as may appear just & appropriate.

Plaintiff hereby demands a jury trial

Dated: July 19, 2022

A. B. O.
Pro. se; Plaintiff

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